

Exhibit A

In the Matter of:

Verisign Inc.

v.

XYZ.com, LLC et al.

Andy Simpson
Final Transcript

July 30, 2015



Court Reporting
Videography
Videoconferencing

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3 Q Do you want me to explain?

4 A I understand.

5 The way that domains work, more characters
6 means more possibilities. It's permutative math.

7 Q And when you're looking at the theoretical
8 number of available .com names in rendering that
9 conclusion, does it matter in your analysis whether
10 a name is super short or not?

11 A A name does not have to be super short to
12 be available.

13 Q You discussed in your report good domain
14 names; is that right?

15 A I reference ways to identify names that
16 some people may see more value in, and the
17 definition I used for that is good.

18 Q Do you think that a super-short domain
19 name by definition is good?

20 A That's up to the person who wants to use
21 it.

22 Q It's subjective?

1 A Subjective?

2 Q Well, objective means that it's a fact,
3 and subjective means that's it's a person's opinion.

4 A Good is a subjective opinion.

5 Q What is the public .com zone file or the
6 public com zone file?

7 A The file that anybody can access.

8 Q And what fields are contained in that
9 file?

10 A It's standard by interconfiguration file.

11 Q Are there certain fields in it --

12 A I wouldn't say --

13 Q -- standard fields?

14 A -- there's fields. There's a specific
15 format for this file.

16 Q Can you describe the format?

17 A Is there something specific you're looking
18 for in it?

19 Q (Shakes head.)

20 A Headers and configuration records.

21 Q Who maintains a public com zone file?

22 A Verisign maintains the public zone file.

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1 simplicity. It doesn't take a significant amount of
2 training to understand it.

[illegible]




	(b) (7)(C), (b) (7)(D)	(b) (7)(F), (b) (7)(G)
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[REDACTED] [REDACTED] [REDACTED]

(b) (5) DPP, (b) (5) ACP, (b) (5) ADP

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The diagram consists of a vertical list of 20 items. Each item is represented by a small black square icon to its left and a horizontal black bar of varying length. The bars are arranged in a way that suggests a sequence or a process, with some bars being longer than others. The diagram is set against a white background with a thin black border.

[illegible]

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[illegible]

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1 that he's talked about in the past couple of years.
2 One of the things they do on a semiregular basis is
3 sit down as a bunch of people talking about domain
4 names and whether they're good or bad.

5 BY MR. NEWMAN:

6 Q Is your definition of radio test the same
7 as the DomainSherpa definition that is described in
8 Exhibit 1037?

9 A I would say mine is less specific than
10 his because --

11 Q Why did you use a less specific
12 definition?

13 A Because he was focused purely on the
14 business use of domain names in his definition.

15 Q And yours?

16 A As we discussed earlier, applies to either
17 businesses or individuals.

18 Q Do you believe that DomainSherpa's
19 definition is an accepted definition?

20 MR. MILLER: Objection. Foundation.

21 A I believe that it is at least one
22 definition that is -- I think if we're going to pick

1 apart the specifics of his wording, some may
2 disagree.

3 BY MR. NEWMAN:

4 Q Are there multiple definitions of the
5 radio test?

6 A Mine is different here.

7 Q Do you know how many different definitions
8 exist among people who you believe are reliable?

9 A I think it's an overly simply -- simple
10 concept. We all may phrase it slightly differently.
11 But I think the spirit of our underlying definitions
12 is consistent.

13 Q Does the radio test require that the user
14 hear the name?

15 A I can envision a less pure version of the
16 test where people would be able to see it but the
17 radio implies hearing.

18 Q But you believe the radio test can be
19 applied even if someone isn't exposed to an audible
20 version of the name?

21 MR. MILLER: Objection. Foundation.

22 A You would probably call it a variant on

1 Exhibit 1038.

2 A (Complies with request.)

3 Q Do you recognize that?

4 A It looks familiar but there's -- something
5 is cut off. Oh, I see. It's the bottom of
6 May 2015.

7 Q Do you recognize Exhibit 1038?

8 A I have seen this before, yes.

9 Q What is it?

10 A It's an article from NetNames.

11 Q Did you cite it in your report?

12 A I did.

13 Q Did you consult that article when
14 formulating your definition of radio test?

15 A I used it as a citation of others in the
16 industry using the radio test. I did not consult
17 this definition for my own evaluation.

18 Q Exhibit 1038 is a NetNames blog?

19 A Yes.

20 Q Is that a reliable source for the radio
21 test definition?

22 A NetNames sells some host domain names.

1 They're an active player in the industry.

2 Q Have you relied on information from
3 NetNames for a purpose other than preparing your
4 report?

5 A I don't specifically recall.

6 Q Is your definition of radio test different
7 than the definition provided in Exhibit 1038?

8 A By direct wording they're different, but
9 the spirit of these is the same. The definition
10 that I see here is that is, do your domain and
11 business names sound as they are written?

12 Q Is that the radio test in your view?

13 A It's a rephrasing of saying the same
14 thing. It's a very simple test.

15 Q So if the names don't sound as they're
16 written, they don't pass the radio test?

17 A They might not.

18 Q Like Olaxken.com?

19 A It depends on who's hearing and who's
20 writing. We established that earlier.

21 Q Does your definition of the radio test
22 require that domain names be spelled the way they

1 sound?

2 A I would say that -- I'm not entirely sure
3 that's relevant to my use of the radio test in this
4 context.

5 Q So under your use of the radio test, it's
6 not important that domain names be spelled the way
7 they sound?

8 MR. MILLER: Objection to form.

9 A Spelled the way they sound. I can say I
10 haven't thought of it in those terms. The way that
11 I've used it is to say that common words are more
12 likely to pass the radio test.

13 BY MR. NEWMAN:

14 Q Under your definition of the radio test,
15 must domain names be spelled the way they sound?

16 A I don't believe that I'm explicit one way
17 or the other.

18 Q So they need not necessarily be spelled
19 the way they sound, domain names, to pass the radio
20 test?

21 A I would say it helps but it's not an
22 absolute rule.

1 Q Does the radio test require that customers
2 be able to spell the domain name without difficulty?

3 A Again, there are no absolute hard
4 requirements for what it takes to pass this.

5 Q Would you please turn your attention to
6 Exhibit 1039?

7 A (Complies with request.)

8 Q Do you recognize it?

9 A It's the third citation.

10 Q Third citation to the radio test, correct?

11 A Yes.

12 Q Did you consult this article when
13 formulating your definition for radio test?

14 A When we're refining the final version of
15 the report, searching for industry references, I
16 consulted this article.

17 Q What is MJS Web Solutions?

18 A It appears to be that they are an
19 advertising and marketing consulting group.

20 Q Do you know that for sure?

21 A No, I do not know that for sure.

22 Q Do you know whether MJS Web Solutions is a

1 Q Do you know whether you've read any
2 articles from MJS Web Solutions other than the ones
3 cited in your report?

4 A I do not know definitively yes or no. I
5 read a lot of these types of articles.

6 Q Is your definition of radio test the same
7 as the one that is discussed in Exhibit 1039?

8 A If the definition that I'm reading here is
9 that if you had to announce your website address
10 over the radio, would people understand it or would
11 you have to explain it? In my opinion, that is
12 another way of phrasing what we've been discussing
13 here the entire time.

14 Q Is it the same as yours or is it
15 different?

16 A From my perspective it's the same and
17 that's because I make a loose interpretation. I
18 loosely read all of these. It's not explicit.

19 Q Under your definition of the radio test,
20 domain names that require an explanation to be
21 memorable don't pass?

22 A I don't think I can definitively say based

1 off of one criteria what will or will not pass the
2 radio test. Individuals and context matter.

3 Q So under some circumstances domain names
4 that require an explanation will pass the radio test
5 and under other circumstances they won't?

6 A I don't think I would necessarily
7 interpret it that way. I see it from a different
8 perspective.

9 Q Under your definition of the radio test,
10 do you require that domain names -- strike that.

11 Under your radio test, do names that
12 require an explanation not pass?

13 A I haven't thought about it from that
14 perspective.

15 Q You don't know one way or another?

16 A I'm thinking. I suppose the way I read
17 this is that an explanation can help a domain name
18 pass the radio test.

19 Q But it's not necessary?

20 A What's not necessary? You used the word
21 "it."

22 Q That a domain name doesn't require an

1) explanation to pass the radio test.

2) A It can pass the radio test without
3) explanation.

4 Q But if it requires an explanation, can it
5 still pass the radio test?

6 A I would argue that during a radio segment,
7 the explanation may already be there aiding the
8 ability for your domain to pass.

9 Q Well, I'm not looking for an argument.
10 I'm asking whether if a domain name requires an
11 explanation, can it pass the radio test?

12 A I think it's safe to say even if a domain
13 name requires an explanation it would be fair to
14 pass it through the radio test.

15 Q In Exhibit 1039 there's discussion under
16 one, use the radio test and there's a discussion
17 under two that says use targeted keywords. Do you
18 see that?

19 A 1039 again? Sorry.

20 Q Yeah. It's 1039 which is the article
21 called -- it's all in the domain name by MJS Web
22 Solutions. Are you looking at it?

1 COMMONWEALTH OF VIRGINIA AT LARGE, to wit:

2 I, LAQUICIA THOMAS, Court Reporter and Notary
3 Public in and for the Commonwealth of Virginia at
4 Large, and whose commission expires February 28, 2018,
5 do certify that the aforementioned appeared before me,
6 was sworn by me, and was thereupon examined by counsel;
7 and that the foregoing is a true, correct, and full
8 transcript of the testimony adduced.

9 I further certify that I am neither related to
10 or associated with any counsel or party to the
11 proceeding; nor otherwise interested in the event
12 thereof.

13 
14
15

16 LaQuicia Thomas

17 Notary Public

18 Commonwealth of Virginia at Large

19 Notary No. 7363169
20
21
22